



# Town of Carlisle

MASSACHUSETTS 01741

Office of

*PLANNING BOARD*

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## DRAFT

### MINUTES

#### Special Meeting

November 7, 1996

**PUBLIC MEETING: Proposed Scenic Roads bylaw (Town Meeting Article 15)**

**DISCUSSION: Review of draft RFP to fund consultant services to prepare Open  
Space Residential Development bylaw  
Review of Overlook Drive for conformance with Special Permit  
Legal counsel services**

Vice Chair Hengeveld called the meeting to order at 8:40 p.m. Duscha, Hengeveld, LaLiberte, and Tice were present. Epstein and Colman joined the meeting in progress. Yanofsky was absent. Also present was Planning Administrator Mansfield.

No minutes of previous meetings were reviewed.

No members of the public were present for the announced open meeting on Article 15, the proposed Scenic Roads bylaw, and so discussion was postponed

#### MAGIC Meeting

The P.A. called the members attention to a workshop on Streamlining the Development Process to be held by MAGIC on November 20, noting that Selectman Chaput had asked that a member of the Planning Board consider attending. Duscha, the Board's representative, suggested that she need not go if Chaput is planning to attend. LaLiberte noted that the Board has received little benefit from MAGIC in the last three years. Duscha replied that they did prepare a water resource study, but added that even that does not directly address Carlisle's issues. The lack of relevance of MAGIC to Carlisle, she said, is largely because Carlisle is at the edge of the region and has no industry or major roadways of regional significance. Hengeveld asked why the Planning Board budget absorbs all of the MAPC dues when we get so little benefit and, in fact, hold only one of the two seats on the board. She and Tice both noted that the \$1,000. might be better utilized to upgrade computer equipment and/or software for the Board.

## **Review of draft RFP to fund consultant services to prepare Open Space Residential Development bylaw**

Epstein joined the meeting. In reviewing the draft Scope of Services prepared by the P.A., Duscha asked whether it should include any review of the existing Conservation Cluster bylaw, or whether that effort should be abandoned in favor of adopting a more general bylaw. LaLiberte suggested that such a review should be retained, so that at Town Meeting the consultant can document the problems with the existing bylaw. He said further that this RFP should be as inclusive as possible.

Hengeveld asked whether the "Background Information" section was necessary. Mansfield replied that he thought it would help a consultant to structure a better proposal.

Duscha suggested removing Sec. 2.2 of the RFP, substituting a general review of the Zoning bylaw. She said she did not want emphasis placed on the Conservation Cluster, nor did she want a consultant to duplicate what Terry Szold has already done. Epstein agreed. He also suggested that 2.4 be revised to indicate that the consultant will meet informally to receive "background information" on the issues; and 2.5 should be written to make it clear that the consultant is encouraged to bring new ideas regarding "decision options" to the Board's attention. Tice suggested that the list of questions be prefaced with "such as."

(Colman joined the meeting at this time.) Duscha added that with regard to each question, she would like the consultant to identify pros and cons, tradeoffs, and the experiences of other towns. She also noted that some items on the list are decisions the Planning Board can make without outside guidance. But Epstein said that he would prefer to include a comprehensive list of decisions in the RFP, with the option of deleting some later.

Colman said that he thought the Scope of Services as drafted would give potential consultants good insight into the thinking of the Board. Tice agreed that the present list should be retained.

Mansfield asked for members' opinions on the number of meetings that the consultant should attend. Colman replied that proposals received should help us to answer this question. Tice added that we will be able to learn more about the most effective process by interviewing consultants who respond. But Colman noted that the Board should at least address the question of whether the consultant was of greater use in public meetings or in drafting. Hengeveld suggested that the consultant be used primarily as a source of information. She stressed that the community should be part of the policy decision-making process. She said that we should ask the consultant to educate the Board, so that we can use that information to reach policy decisions.

Tice observed that this RFP was much more specific than those with which he was familiar. Mansfield assured him that this level of specificity is often found in this field. Epstein asked whether line items should be bid separately, or they should be provision for bid alternates. It was agreed that this was probably not necessary or appropriate, but that certain consultants may suggest additional work for which they would provide an estimate. Epstein suggested that the consultants might be asked to identify other policy questions, not listed here, that should be addressed before an open space bylaw can be drafted.

[At this point, the discussion was laid on the table to take up other scheduled business; the following discussion resumed later in the evening.]

Epstein asked whether, in 2.8, the contractor was expected to draft revisions to the Conservation Cluster bylaw. It was agreed that this was not to be included. Epstein further noted, however, that in 2.5 one of the policy issues to be addressed is whether to retain the Conservation Cluster bylaw at all, and that question should remain in the RFP and be addressed.

Mansfield referred to the proposed timetable and suggested that the RFP, released before Town Meeting, might be a useful tool to support the request for funding. Several members concurred that the timetable was fine. Duscha asked that there be more discussion about the public process.

It was finally agreed that the P.A. revise and issue the RFP based on this discussion, and that LaLiberte be delegated to review the final document, with Duscha also providing guidance specifically for Sec. 2.5 (the policy questions.)

### **Review of Overlook Drive for conformance with Special Permit**

The developer of Overlook Drive, Les Bishop, was present for this discussion. With him were his wife, Kim Bishop, his engineer, Dennis LaBombard, and his attorney, Tim Woodward. Colman assumed the chair for this discussion.

Les Bishop addressed the issues that the Board had raised regarding potential non-conformance with the approved common driveway special permit. In particular, he tried to explain the grade of the driveway, which the Board had contended exceeded the designed 8% and LandTech, in its letter of November 5, 1996, had confirmed to be at a maximum of 9.1%. Bishop explained that the corner near the driveway's cul-de-sac has been "superelevated," or banked to keep vehicles to the inside. He presented a letter from his surveyor, Steven Patrick, dated November 5, that explained that as-built grades were shot on the superelevated outside edge of the road and not on the centerline. Using this method, Patrick found that grades did not exceed 8%. Bishop also explained that LandTech's measurements were off laterally by 9" at station 8+50. LandTech began its measurements at Rutland St., he said, and he could only figure that LandTech and his

surveyor did not start at the same point. LaBombard explained that the grade would be much steeper on the inside edge of the superelevated curve than on the outside, where it was measured.

Colman noted that the Town's engineer says that the driveway has to be lowered to conform to the approved permit, and so the Board has no choice but to require this. Woodward said that he could find no design standard for common driveway grades in the Zoning bylaw. Mansfield replied that the limit is 8%, set by the rules and regs. Colman added that the Board is responsible to see that the driveway is built to conform to the recorded plans.

*subdivision*

Woodward stated that this driveway is still under construction and that no as-built plans have been prepared or submitted at this stage. His client has attempted to demonstrate that he has built this facility according to plan at this time. After it is complete, it would be the appropriate time for his client either to seek an amendment or rebuild the driveway if it is still found to be non-conforming. He asked whether the Board applies the same standards at the point when the binder course is laid in a subdivision development. Colman replied, "absolutely!" Woodward went on to say that the bylaw doesn't provide for security for an applicant's performance of a common drive special permit. He said he doesn't want to face revocation of the special permit, and reiterated that his client will seek an amendment or change the installation if inconsistencies are found when the work is complete.

Bishop objected that Mark Sleger of LandTech never went to the site but based his letter on the findings of his surveying crew. He argued that the site is stabilized now, and should not be altered before winter. Woodward added that the Conservation Commission's requirements have driven some of the changes.

Colman asked what the Building Inspector, Bob Koning, has had to say about the condition of this site. He added that it was Koning who identified a problem to the Planning Board, and pointed out that Koning acts as the Board's enforcement agent here. Bishop replied that he first learned of the problem from Koning, who on an interior inspection two weeks ago told Bishop he had a letter from the Planning Board recommending he issue a stop-work order. Although he did so, Koning has meanwhile performed a plumbing inspection and has told Bishop to resolve his issues with the Planning Board.

Tice asked why Bishop cannot simply fix the grade now. Bishop replied that he would prefer to do so next spring when the home construction is complete and the ground is dry. Duscha stated that her concern is for the safety of the present grades for the people now living on the site. Woodward replied that if the concern is safety, many towns permit 9% grades on minor streets. This is not even a street, but a private driveway owned by four homeowners, he added. He said that he is not convinced that the current condition is unsafe. Furthermore, he noted, the Conservation Commission would not want the pavement ripped up now.

Epstein asked how much it would cost to fix the grade now. Bishop replied that would depend upon how it was done. He said he could bring up the bottom of the grade by 4", but that as it is built on 8 ft. of gravel, it will likely settle before spring. The cost is not substantial, he said, but it would be difficult to get a paving company lined up now to do the work before winter. Epstein noted that it may not make sense to correct the situation now, but asked what assurances the Board has that it will eventually be corrected. LaLiberte suggested that the Board could recommend that the stop-work order be lifted contingent on filing amendments by a certain date.

Bishop proposed that if he does not either file for an amendment or bring the road to the design grade, the Town could hold the occupancy permit on the last lot until one of those actions was fulfilled. Colman responded that this offer would be acceptable if it were put in writing. He added, however, that the Board has an obligation to determine that the driveway is safe now. If a guardrail is necessary at the steepest section, it should be added, he said. Duscha proposed that the Board would find any grade over 8% to be unsafe, using the subdivision rules and regs. as a standard. On this site, she said, it seems particularly unsafe because of the curve and the sideslope.

Bishop replied that LandTech is not saying that the drive is unsafe, but just that it does not conform to the plan. If LandTech finds it unsafe, he said, he would install a guardrail. Duscha asked that these issues be further clarified with LandTech and with Koning. But Woodward stated that Koning feels he is in the middle of the controversy, and so cannot take a position.

Colman attempted to clarify the situation. He said that, effectively, there is no stop-work order. The real issue is whether there is a safety concern. That could be quickly determined from LandTech. If there is, then the stop-work order must be reinforced until the safety concerns are corrected. If not, then Bishop can move ahead with his construction, given the security he has offered in the form of the fourth occupancy permit. Epstein assented to this solution, and added his concern that we reached this point without knowing for certain that the issue is safety. Tice, LaLiberte and Hengeveld voiced agreement, but Duscha admitted that she was still concerned.

Epstein asked if Bishop was willing to bear the cost of having Sleger visit the site to evaluate the safety. Bishop replied that he was, and Epstein asked that this, too, be communicated in writing. Bishop added that he wished to have LaBombard be present when Sleger visits the site, and asked that Sleger give 2-3 days notice.

#### **PUBLIC MEETING: Proposed Scenic Roads bylaw (Town Meeting Article 15)**

Throughout the meeting, no members of the public arrived for this discussion. Duscha stated that she was not in agreement with the draft of the bylaw as presented by Town Counsel because she believed the definitions, at a minimum, should remain in the bylaw.

Colman asked if it were not sufficient that these be contained in the rules and regs. Duscha replied that if included in the bylaw, they would help educate the Town Meeting participants about the purpose and meaning of the bylaw and thereby encourage the article's approval. Colman said he doubted that anyone would read the whole bylaw.

Mansfield suggested that he prepare a handout for Town Meeting that helped to explain the bylaw and included the proposed definitions, as well as a list of the scenic roads already designated. The members concurred, and discussed who would present the article at Town Meeting. It was agreed that Colman would present Article 15, and LaLiberte would handle Article 9 (request for consultant funds).

#### **Discussion of legal counsel services**

Members reviewed a draft memorandum to the Selectmen outlining the Planning Board's dissatisfaction with Kopelman and Paige. Colman asked that references to breaches of confidentiality be deleted, and suggested that this memorandum be held until after Town Meeting. Epstein explained that he had been working with the P.A. to develop a list of firms with experience representing municipal clients, particularly in the areas of zoning and planning. He suggested that firm resumes and fee structures be sought from those on the list. That initiative was also postponed until after Town Meeting.

The meeting was adjourned at 11:05 p.m.

Respectfully submitted,

George E. Mansfield  
Planning Administrator